

**DRAFT COMPATIBILITY DETERMINATIONS AND  
PRE-ACQUISITION COMPATIBILITY DETERMINATIONS  
for Wildlife Observation, Photography,  
Environmental Education and Interpretation, Canoe/Kayak Landing/Launching, Boater-  
only Camping, Dog Walking, and Tribal Access and Gathering  
on the  
Lanphere Dunes Unit Modification and the Proposed Ma-le'l Dunes Addition Humboldt Bay  
National Wildlife Refuge,  
Humboldt County, California**

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**Part I. Overview of Refuge Purposes and Interim Public Uses**

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**Uses Considered:** Wildlife Observation, Photography, Environmental Education and Interpretation, Canoe/kayak landing/launching, Boater-only Camping, Dog-walking, and Tribal Access and Gathering.

**Refuge Name:** Humboldt Bay National Wildlife Refuge (HBNWR)

The refuge would be expanded with the proposed donation of the 160-acre Ma-le'l Dunes (MD) parcel by The Center for Natural Lands Management. The new 290-acre Ma-le'l Dunes Unit (MDU) would encompass the 160-acre addition plus 130 acres of the existing, adjoining Lanphere Dunes Unit (LDU) known as the Fernstrom-Root parcel (see Fig.1). This Compatibility Determination applies to the interim management period for the new Unit. Because the new MDU will consist of the MD addition plus a portion of the existing LDU, the following includes both pre- and post-acquisition Draft Compatibility Determinations. As interim determinations, they will be re-evaluated when the HBNWR undergoes the Comprehensive Conservation Planning process projected to begin in 2008.

**Establishing and Acquisition Authorities:**

Humboldt Bay NWR was established under two legislative authorities: the Migratory Bird Conservation Act of 1929 (16 U.S.C. 715-715D), and the Refuge Recreation Act of 1962 (16 U.S.C. 460K-460K-4). The 1998 expansion of the refuge boundary to include the LDU derived acquisition authority from the Endangered Species Act of 1973, as amended (U.S.C. 1532-1544, STAT 884), and the Refuge Recreation Act of 1962 (16 U.S.C. 460K-460K-4).

**Refuge Purpose(s):**

Humboldt Bay NWR was established to conserve and protect bay wetlands used by a variety of migratory waterfowl and shorebirds, and to protect and enhance habitat for federally endangered and threatened plant and animal species, while providing for incidental fish and wildlife-oriented dependent recreational use.

**National Wildlife Refuge System Mission:**

The mission of the System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (16 U.S.C. 668dd-668ee)..

**Interim Management Goals of the Lanphere Dunes Unit and the proposed Ma-le'l Dunes Unit Addition:**

The interim goals of LDU were set for the Conceptual Management Plan for the Lanphere Dunes Unit, 1997. They reflect the core mission of the Service—to protect fish and wildlife resources of national importance while providing opportunities for the public to appreciate and enjoy the natural heritage of the region. These goals would also apply to the proposed MDU. Interim goals are to:

- Acquire, manage, and restore 1) the dune mat plant community for the endangered Humboldt Bay wallflower and beach layia, and 2) coastal wetland habitat for neotropical bird species.
- Maintain and promote long-term viability of the ecosystem by reducing fragmentation through restoration and cooperative efforts with adjoining landowners.
- Coordinate and promote partnerships with other Federal, State, and County agencies, landowners, community groups, and non-governmental organizations interested in refuge management planning, biological research, and public outreach.
- Promote wildlife-dependent educational opportunities on refuge lands to foster public awareness and appreciation of our unique natural heritage.

## Proposed Addition and Modification to HBNWR

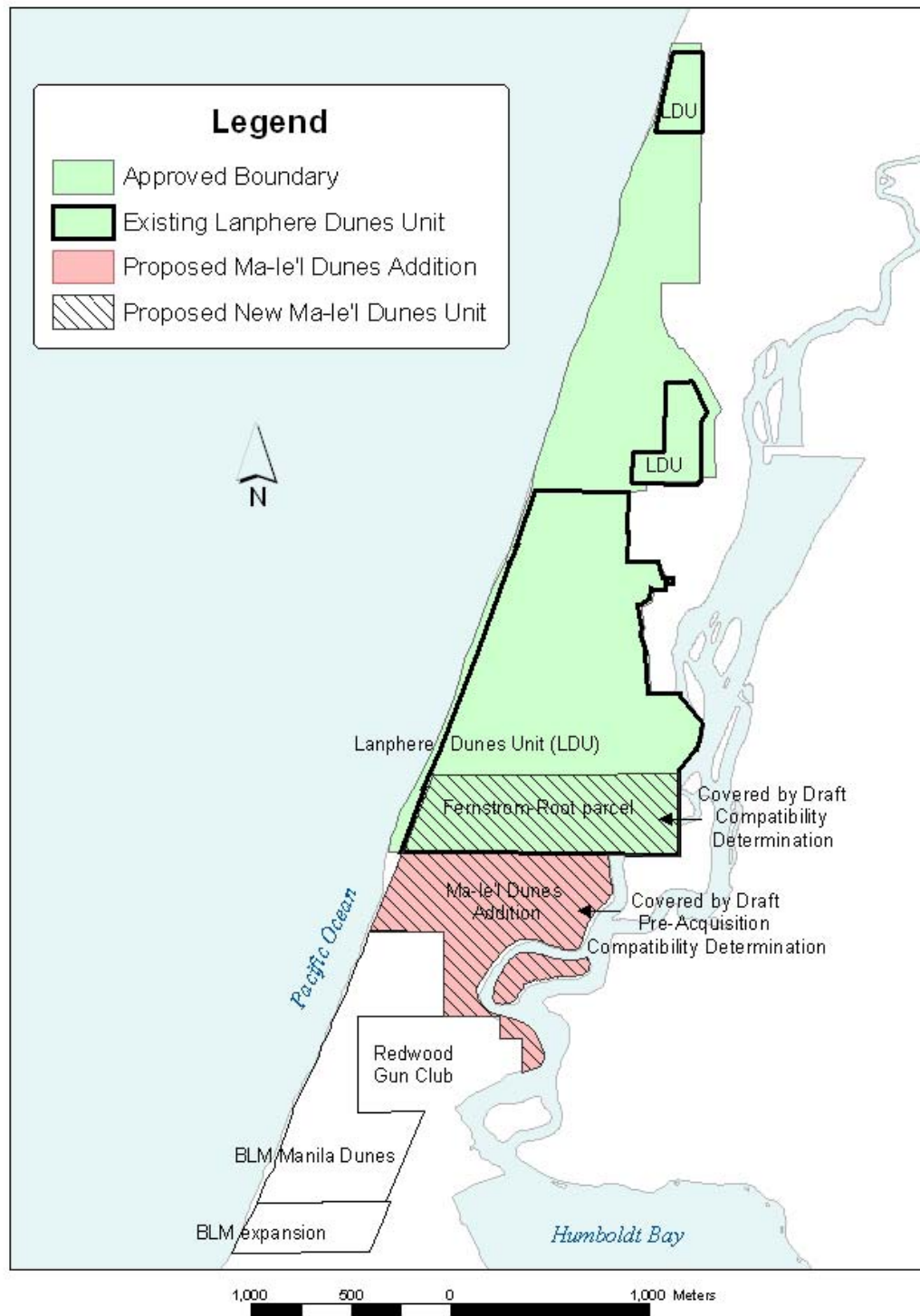


Figure 1. Map showing proposed Ma-le'l Dunes Unit, to include 130 acres of existing LDU.

Draft Compatibility and Pre-Acquisition Compatibility Determinations, Proposed Ma-le'l Dunes Unit,  
Humboldt Bay National Wildlife Refuge

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**Part II. Draft Compatibility Determination and Pre-acquisition Compatibility  
Determination for  
Wildlife Observation, Photography, and Environmental Education and Interpretation  
on the  
Proposed Ma-le'l Dunes Addition and the Lanphere Dunes Unit Modification, Humboldt  
Bay NWR**

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**Description of Use(s):**

Background and Public Use History

During the interim period between acquisition of the Ma-le'l Dunes addition and the development of the Comprehensive Conservation Plan (CCP) scheduled for 2008, public use programs implemented would be based on pre-existing uses. The Nature Conservancy owned the Lanphere Dunes Unit from its establishment in 1974 until 1998. During this time, the California State Coastal Conservancy (Coastal Conservancy) provided funding for two additions to the property. The grant agreement for the first addition (known as the Hutton parcel) required that public use be assured, pursuant to the existing use guidelines of The Nature Conservancy (use by permit or docent-led tours). The second grant agreement led to the acquisition of the southern-most parcel, known as the Fernstrom-Root parcel. In this case the grant agreement required that public access be provided via a separate access with fewer restrictions (allowing some walk-on use without a permit or docent). TNC then entered into a Cooperative Land Management Agreement (CLMA) with then owner of the MD parcel (Louisiana-Pacific Corp.) and the adjacent owner Bureau of Land Management. The CLMA area consisted of the Fernstrom-Root parcel, the MD parcel (owned by Louisiana-Pacific) and Manila Dunes Area of Critical Environmental Concern, owned by the Bureau of Land Management. The area was managed from 1992-1994 to provide public access in addition to protection and restoration of biological diversity. The open sand areas of the Bureau of Land Management and Ma-le'l Dunes parcels were excluded from the CLMA and off-highway vehicles were allowed in those areas. In 1994 the MD parcel was acquired by an Off-Highway Vehicle (OHV) Club. Public use of the parcel was discontinued, and recreational OHV use was conducted by the club in violation of a county ordinance until 1998. From 1998 until present, the MD property was not used for any owner-authorized public uses. In 1998 the Nature Conservancy donated fee title of the Lanphere Dunes Unit to the U.S. Fish and Wildlife Service and the Coastal Conservancy's grant agreement language was transferred to a Memorandum of Agreement (MOA) between the Coastal Conservancy and the Service providing for the conditions outlined in the grant agreement. At this time Interim Compatibility Determinations were developed for the Lanphere Dunes Unit (USFWS 1997). In 2003, when the Coastal Conservancy conveyed the MD parcel to Center for Natural Lands Management, the Irrevocable Offer to Dedicate (OTD)

contained provisions relating to access and conservation. The Service expects to replace the OTD with a MOA with Coastal Conservancy at the time of donation. The MOA would have provisions that reflect the original terms of the Grant Deed.

Interim public use (prior to completion of a CCP) of the MD parcel is expected to be facilitated through a Memorandum of Understanding between the Service and the adjoining property owner, Bureau of Land Management (BLM). A cooperative management framework would be outlined that allows for coordinated management of resources and public use over BLM lands, the MD parcel, and the Service's Fernstrom-Root parcel. Public use of the cooperatively managed area Public use would be based on uses allowed during the operation of the Mad River Slough Cooperative Management Area from 1992-94. These uses included wildlife observation (walking), photography, and environmental education and interpretation along trails in the forest and vegetated, near-shore dunes during daylight hours. Use was approximately 2,000 visitors per year at the former Mad River Slough and Dunes Cooperative Management Area but is expected to be higher at the proposed addition based on use figures from adjoining Bureau of Land Management property (up to 6,000 visitors per year). No use of the salt marsh or other wetlands was permitted on the former area, with the exception of a short trail from the parking area to the mudflat for the purposes of canoe and kayak landing and launching. Dogs were allowed under the control of the owner. The only uses previously allowed that would no longer be permitted are dog-walking and OHV use. At the adjacent Bureau of Land Management property, dog walking but not OHV use is permitted.

### Wildlife Observation

The proposed MD addition and the Fernstrom-Root parcels were open to the public for pedestrian, on-trail use from 1992-1994. Wildlife observation was permitted during operating hours (eventually, five days per week during daylight hours). All of these uses are proposed to continue. Walk-on use during operational hours (from one hour before to one hour after sunset, seven days a week) will be permitted along trails and on open sand areas. Trails, interpretive kiosks, benches, boundary signs, and a wildlife viewing platform were improved or constructed during 1992-94. These existing trails would be maintained and improved during the interim period. No additional forest trails would be created, although the short trail providing egress from the forest to the open dunes would be rerouted to a more suitable location slightly to the south. A trail existed at one time on the nearshore dunes, but has become obliterated. This trail, providing access through the sensitive dune mat and dune swale vegetation to the beach, would be re-established. Trail and informational signs, benches, interpretive kiosks, and a viewing platform located along the forest trails would be improved or replaced during the interim period (see Fig. 2). Interpretive kiosks would address ecological and cultural features, including endangered plants and Wiyot history. Kiosks would be placed only along the existing railroad berm and at the turn-around clearing on the Fernstrom-Root parcel; any other existing kiosks would be removed. The existing access road and parking lot would be maintained or improved, with the road eventually paved if

resources permit. The former self-composting privy (previously removed by the Center for Natural Lands Management) would be replaced and upgraded. The existing gate at the south end of the road would be relocated south of the existing BLM casual parking area, but the trail would still be accessible to walkers who park at the new BLM parking area to be created on the BLM expansion. The gates would be locked and unlocked by an on-site caretaker located on the proposed adjoining Bureau of Land Management property. A wheelchair accessible trail would be developed along the previously established route (the length of the former railroad berm) providing funding is obtained. Maximum use levels would be set at 7,000 individual users per year, monitored by a voluntary sign in. If use levels exceed this level, these uses would be reevaluated. Otherwise, these uses would be reevaluated as part of the Comprehensive Conservation Planning process.

## Existing/Proposed Access Improvements

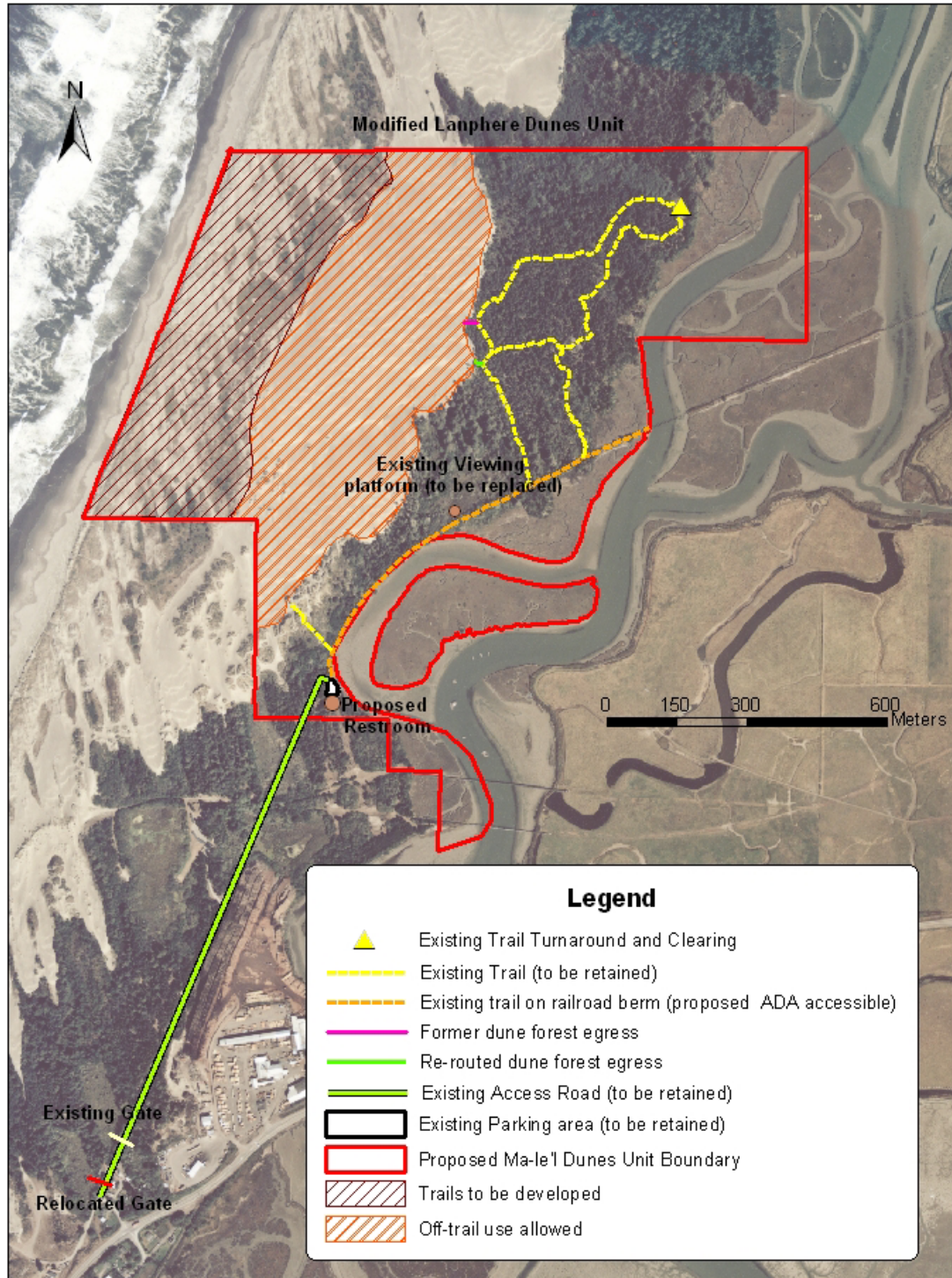


Figure 2. Existing and proposed access improvements for wildlife observation, photography, and environmental education and interpretation.



## Photography

Photography by on-trail pedestrians, which includes other image-capturing activities such as videography, has occurred in the past and would be allowed in the future on the proposed addition. There are no developed photography blinds, but there is one viewing platform built over a swamp. If photographers wish to utilize areas of the Refuge not open to the general public, they must acquire a special use permit in advance from the Refuge Manager. Under current Service regulations, commercial photographers utilizing areas and facilities on the Refuge that are open to the general public may capture images intended for sale or profit. and may be required to be accompanied by Refuge personnel and to pay a fee. The standard fee for the administration of such commercial use is currently \$100 per year. If any special attention (such as transportation, access to restricted areas) is provided by the Refuge staff, these costs would be added to the standard fee. Non-commercial photographers who wish to capture images off-trail would also have to obtain a permit, although no fee would be assessed.

## Environmental Education and Interpretation

The proposed addition would be open to the public for environmental education and interpretation opportunities along existing trails and open sand areas on foot, or if a barrier-free trail is constructed, by wheelchair. The Friends of the Dunes, a non-profit organization and the current Refuge Support Group, as well as additional non-profits such as Audubon and the California Native Plant Society, would lead organized environmental education and interpretation outings into the proposed addition, with all trip leaders trained by or accompanied by leaders trained by Friends of the Dunes. Friends of the Dunes may establish regular walks (monthly or bimonthly), which would be led by trained docents. All docents and any other trip leaders would be trained by Friends of the Dunes with input from the Service. Classes (including University) must arrange visits in advance with refuge staff or Friends of the Dunes, and must be accompanied by a trained Friends of the Dunes docent or staff member. Initially, organized outings (of all types) at the MD would be limited to a frequency of no more than one per day and no more than six per month, with a maximum participation of 50 people at one time. However, ongoing monitoring and adaptive management would allow for revision of these limits up or down. Existing signs and interpretive kiosks (remaining on the site from the 1990s) would be improved, maintained, or replaced to manage this use. All educational and interpretive outing participants would be educated on the sensitivity of the resource, the mission of the refuge system, purpose of the refuge, and public use guidelines.

## **Availability of Resources:**

The proposed uses would require an on-site caretaker and a level of staffing in excess of what is currently available. However, a Memorandum of Understanding would be sought with the



BLM to share the costs of management, and funding would be sought from the California State Coastal Conservancy or other sources for needed public access improvements. Through efficient resource sharing and the procurement of grant funding for access improvements, the Service expects to have adequate resources to allow for proposed uses. A Memorandum of Agreement would also be sought with the Friends of the Dunes allowing for assistance from the refuge support group in managing these uses. The Friends would target grant funds for environmental education and interpretation. The cost of proposed trail and sign improvements needed to insure compatibility for the above uses (trail brochure, trail clearing, design of new trail from forest to beach, blocking of casual trails, signage, interpretive kiosks, restroom, parking lot improvement, and viewing platform is estimated at \$80,000 (including permitting), with annual maintenance and brochure production costs estimated at \$1,000 per year. The addition of a wheel-chair accessible trail is estimated at \$15,000. Road maintenance costs are estimated at \$6,000 per year. The cost of paving (not required to implement this plan) is estimated at \$400,000. The caretaker would be sited on BLM land. There is an existing site equipped for a trailer and it is BLM's policy to have volunteer hosts with their own trailer. The cost of getting the existing site cleaned up and ready is estimated at \$5,000 and the cost for a volunteer caretaker at \$4,000 per year. The caretaker will remove garbage and perform routine maintenance. BLM has law enforcement in place for their Manila Dunes property, but would need to increase the amount of patrolling done in the vicinity, at a cost of approximately \$5,000 per year. Service staff time needed to carry out monitoring to insure compatibility is estimated at \$2,000 per year. CDF crews and volunteers would be used to conduct annual trail maintenance. The cost of annual maintenance of trails, signs, etc. is estimated at \$5,000 per year. The BLM has a qualified archeologist on staff to monitor impacts to cultural sites. The cost of this added monitoring and consultation with the Wiyot tribe is estimated at \$2,000 per year.

### **Anticipated Impacts of the Use(s):**

#### Endangered and Threatened Species

None of the proposed improvements for the proposed uses (trail development, signs, kiosks) would directly impact endangered or threatened species because improvements will be located away from rare plant areas. Without adequate management, visitors walking off-trail on the nearshore dunes or salt marshes have the potential to damage the endangered beach layia and Humboldt Bay wallflower, and the rare Point Reyes bird's beak (*Cordylanthus maritimus* ssp. *palustris*). Walkers (even on-trail) may introduce new or spread existing invasive species as seeds or reproducing plant parts. Also of concern is the potential for illegal collection of rare plants. The restriction of use to trails, the construction of trail signs and interpretive kiosks, and the presence of a caretaker and back up law enforcement are needed to reduce or avoid impacts. Proposed monitoring would detect any negative impacts to endangered and threatened plants. If monitoring determines that users are not adhering to refuge rules (Stipulations presented herein) or are causing

unacceptably adverse impacts, these uses would be reevaluated. Otherwise, these uses would be reevaluated as part of the Comprehensive Conservation Planning process.

The federally threatened Western Snowy Plover has not been documented breeding on or utilizing the proposed addition. The beach is narrow and steep, lacking the flat sloping topography preferred by this species.

### Coastal Dunes and Wetlands

The potential for visitors to transport invasive, exotic species into the MDU, especially into native habitat restoration areas, on their footwear or clothing, is of concern. Trampling native vegetation if visitors wander off-trail can also occur. Dune and salt marsh plant communities are known to be particularly sensitive to trampling, and studies have been conducted at the LDU confirming this. Although the open sand areas are resistant to trampling impacts, these areas are used extensively in summer months as nesting substrate for native solitary bees and wasps that are important pollinators of the native dune plants. The ignition of wildfires caused by smoking or unauthorized campfires could negatively impact restoration activities, and native plant and animal populations. The restriction of use to trails, the construction of trail signs and interpretive kiosks, and the presence of a caretaker and back up law enforcement are needed to reduce or avoid impacts. Proposed monitoring would detect any negative impacts to dunes and wetlands. If monitoring determines that users are not adhering to refuge rules (Stipulations presented herein) or are causing unacceptably adverse impacts, these uses would be reevaluated. Otherwise, these uses would be reevaluated as part of the Comprehensive Conservation Planning process.

Road and trail improvements would be carried out in areas that are already developed and would not further impact dunes or wetlands. The replacement of the viewing platform would result in temporary impacts to freshwater marsh during construction. These impacts would be considered in a Section 404 permit under the Clean Water Act.

### Migratory birds

The restriction of use to trails, the construction of trail signs and interpretive kiosks, and the presence of a caretaker and back up law enforcement are needed to reduce or avoid impacts. Without this level of management, users could potentially negatively impact migratory bird habitat through the development of casual trails, and disturbance of resting birds.

### Cultural resources

The MDU is a part of the ancestral territory of the Wiyot tribe. There are sensitive cultural resources known to be on site. No trails will lead to culturally sensitive sites. The restriction of use to trails, the construction of trail signs and interpretive kiosks, and the presence of a caretaker and back up law enforcement are needed to reduce or avoid impacts. Monitoring of cultural resources would be conducted annually in cooperation with the Wiyot tribe to detect any adverse impacts. If monitoring determines that users are not adhering to refuge rules (Stipulations presented herein) or are causing unacceptably adverse impacts, these uses would be reevaluated. Otherwise, these uses

would be reevaluated as part of the Comprehensive Conservation Planning process.

**Public Review and Comment:**

This Draft Compatibility Determination and Pre-Acquisition Compatibility Determination will be made available for public review and comment for 30 days by posting at Refuge Headquarters in Loleta, California and by a news release to the Eureka Times Standard. Any comments received and our responses will be summarized here in the final Compatibility Determination.

**Determination (Check One Below):**

☐ Uses are Not Compatible

☒ Uses are Compatible with the following stipulations

**Stipulations Necessary to Ensure Compatibility:**

To insure impacts remain within acceptable levels, the following stipulations are required (improvements and trails are shown in Figure 1):

- Public use as outlined above will not be allowed on site until funding is procured to carry out improvements identified in Description of Uses above, and only as long as adequate funding is available to carry out annual monitoring as specified above.
- A new trail route will be developed to route users from the forest to the beach. The trail will be placed in such a way that impacts to endangered and threatened species will be minimal.
- A monitoring program will be established and implemented by refuge staff to measure baseline conditions in native vegetation and rare or endangered plants (including along new trail route) in order to detect any adverse impacts resulting from public use.
- Public use will be permitted on trails and open sand areas (see Fig. 2) only, except via Special Use permit obtained from the Refuge Manager at least two weeks in advance. The trail system will be well marked and a brochure available outlining use policies. Maximum individual use levels will be set at 7,000 persons per year, above which the use will be reevaluated.
- Maximum classroom and organized use will not exceed one trip per day and no more than six per month, with a maximum participation of 50 people at one time. However, ongoing

monitoring and adaptive management would allow for revision of these limits up or down.

- Organized trips and classroom use must be accompanied by a docent trained by the Friends of the Dunes or refuge staff member. Arrangements for group or classroom visits must be made at least two weeks in advance by calling refuge staff or Friends of the Dunes, or by reserving space through the Friends of the Dunes website at [friendsofthedunes.org](http://friendsofthedunes.org).
- Participants attending organized outings or classroom visits will be educated by the trip leader about the refuge system mission, refuge purpose, sensitive resources, potential impacts, and refuge rules. These areas will be covered in the annual docent training offered by Friends of the Dunes..
- There will be no overflow parking once the lot is filled, and signs will be erected to inform users of this policy and to allow for towing of any cars that park in undesignated areas or that obstruct traffic.
- A barrier (symbolic or unobtrusive fencing) will be installed around the perimeter of the parking area to prevent visitors from trampling on the adjacent salt marsh, which supports rare plants.
- No smoking or fires will be permitted.
- Any existing casual trails that access known cultural resource sites will be masked and/or allowed to grow over before the public is admitted on to the MDU. In places where casual trails have developed off of main trails, a combination of barriers, signage, and education will be used to restore the vegetation.
- Culturally sensitive sites will be monitored annually in cooperation with the Wiyot Tribe to ensure that no degradation of the sites occur as the result of public access. Signs indicating prohibitions against disturbance or collection of cultural sites will be posted at the parking area. These signs will contain language sufficient to allow for enforcement of applicable laws.
- The current viewing platform located in the freshwater marsh does not meet public safety codes. The platform will be removed, and replaced if funding is obtained.
- Gates will be opened and closed daily to prevent unauthorized night time use and reduce the possibility of fires. Access will be allowed only between sunrise and sunset unless a Special Use Permit for alternative hours is acquired from the Refuge Manager in advance.

- Visitors will be asked to sign in at the trail head near the parking lot, to pack out all food, trash, and other supplies that are brought in, avoid breaking or trampling of vegetation, and avoid disturbing wildlife. Sign in sheets will be collected by the Caretaker and use figures compiled by refuge staff or Friends of the Dunes. Collection of plants, animals, and other specimens will be prohibited on the Refuge without a signed Special Use Permit. All use regulations will be posted at the parking area near the trail head.
- Meetings between the Service and adjoining landowners including the Redwood Gun club will be held annually to address public safety and other issues.
- The Service will implement an active law enforcement program in cooperation with the BLM to protect MDU resources and the visiting public.

**Justification:**

Wildlife observation, photography, and on-trail foot or wheelchair access allow the visiting public to enjoy, experience, and learn about the native wildlife in their natural habitat. Concerns about protecting rare native plants and animals, and the overall integrity of the dune ecosystem require that wildlife observation and photography programs be restricted to trails and open sand areas, monitored, and groups be led by trained docents, during the interim phase. If monitoring determines adverse impacts to be at an unacceptable level, or that users are not complying with refuge regulations and/or the Stipulations provided herein, the uses will be reevaluated.

**Mandatory Re-evaluation Dates:**

**Oct. 2018 Mandatory 15-year Re-evaluation Date**

**NEPA Compliance (Check One Below):**

☐ **Categorical Exclusion and Environmental Action Statement**

☒ **Environmental Assessment and Finding of No Significant Impacts, Proposed Lanphere dunes Unit, Humboldt Bay NWR, June 2004 (attached)**

☐ **Environmental Impact Statement and Record of Decision**

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**COMPATIBILITY AND PRE-ACQUISITION COMPATIBILITY DETERMINATION  
for Wildlife Observation, Photography, and Environmental Education and Interpretation  
on the Lanphere Dunes Unit Modification and the Ma-le'l Dunes Unit Addition, Humboldt  
Bay National Wildlife Refuge  
Determination and Concurrence Signature Page**

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**Refuge Determination**

**Prepared by:** \_\_\_\_\_  
(Signature) (Date)

**Refuge Manager/  
Project Leader  
Approval:** \_\_\_\_\_  
(Signature) (Date)

**Concurrence**

**Refuge Supervisor** \_\_\_\_\_  
(Signature) (Date)

**Regional Chief,  
NWRs:** \_\_\_\_\_  
(Signature) (Date)

**CNO Manager:** \_\_\_\_\_  
(For CA/NV) (Signature) (Date)

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**Part III. Draft Compatibility Determination and Pre-acquisition Compatibility  
Determination for  
Canoe/Kayak Landing  
on the Lanphere Dunes Unit Modification and the  
Proposed Ma-le'l Dunes Unit Addition, Humboldt Bay NWR**

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**Description of Use:**

Background and Public Use History

During the interim period between acquisition of the Ma-le'l Dunes addition and the development of the Comprehensive Conservation Plan (CCP) scheduled for 2008, public use programs implemented would be based on pre-existing uses. The Nature Conservancy owned the Lanphere Dunes Unit from its establishment in 1974 until 1998. During this time, the California State Coastal Conservancy (Coastal Conservancy) provided funding for two additions to the property. The grant agreement for the first addition (known as the Hutton parcel) required that public use be assured, pursuant to the existing use guidelines of The Nature Conservancy (use by permit or docent-led tours). The second grant agreement led to the acquisition of the southern-most parcel, known as the Fernstrom-Root parcel. In this case the grant agreement required that public access be provided via a separate access with fewer restrictions (allowing some walk-on use without a permit or docent). TNC then entered into a Cooperative Land Management Agreement (CLMA) with then owner of the MD parcel (Louisiana-Pacific Corp.) and the adjacent owner Bureau of Land Management. The CLMA area consisted of the Fernstrom-Root parcel, the MD parcel (owned by Louisiana-Pacific) and Manila Dunes Area of Critical Environmental Concern, owned by the Bureau of Land Management. The area was managed from 1992-1994 to provide public access in addition to protection and restoration of biological diversity. The open sand areas of the Bureau of Land Management and Ma-le'l Dunes parcels were excluded from the CLMA and off-highway vehicles were allowed in those areas. In 1994 the MD parcel was acquired by an Off-Highway Vehicle (OHV) Club. Public use of the parcel was discontinued, and recreational OHV use was conducted by the club in violation of a county ordinance until 1998. From 1998 until present, the MD property was not used for any owner-authorized public uses. In 1998 the Nature Conservancy donated fee title of the Lanphere Dunes Unit to the U.S. Fish and Wildlife Service and the Coastal Conservancy's grant agreement language was transferred to a Memorandum of Agreement (MOA) between the Coastal Conservancy and the Service providing for the conditions outlined in the grant agreement. At this time Interim Compatibility Determinations were developed for the Lanphere Dunes Unit (USFWS 1997). In 2003, when the Coastal Conservancy conveyed the MD parcel to Center for Natural Lands Management, the Irrevocable Offer to Dedicate (OTD) contained provisions relating to access and conservation. The Service expects to replace the OTD with a MOA with Coastal Conservancy at the time of donation. The MOA would have provisions that reflect the original terms of the Grant Deed.



Interim public use (prior to completion of a CCP) of the MD parcel is expected to be facilitated through a Memorandum of Understanding between the Service and the adjoining property owner, Bureau of Land Management (BLM). A cooperative management framework would be outlined that allows for coordinated management of resources and public use over BLM lands, the MD parcel, and the Service's Fernstrom-Root parcel. Public use of the cooperatively managed area Public use would be based on uses allowed during the operation of the Mad River Slough Cooperative Management Area from 1992-94. These uses included wildlife observation (walking), photography, and environmental education and interpretation along trails in the forest and vegetated, near-shore dunes during daylight hours. Use was approximately 2,000 visitors per year at the former Mad River Slough and Dunes Cooperative Management Area but is expected to be higher at the proposed addition based on use figures from adjoining Bureau of Land Management property (up to 6,000 visitors per year). No use of the salt marsh or other wetlands was permitted on the former area, with the exception of a short trail from the parking area to the mudflat for the purposes of canoe and kayak landing and launching. Dogs were allowed under the control of the owner. The only uses previously allowed that would no longer be permitted are dog-walking and OHV use. At the adjacent Bureau of Land Management property, dog walking but not OHV use is permitted.

#### Canoe/Kayak landing/launching

The Mad River Slough is a popular kayak and canoe route. Public launching into the slough is available at the Mad River Slough Bridge on Highway 255 (which has a public boat ramp), and on the Lanphere Road bridge (which has no ramp, but canoes and kayaks are frequently launched from the rock abutment to the bridge). The existing parking area at the MDU is adjacent to an intertidal channel of the Mad River Slough. As such, canoes or kayaks can be landed during high tides, although the channel is exposed at low tides. Previously, a short trail was established from the MD parking area, through the salt marsh, to the channel, and a sign erected indicating that non-motorized boats could land. Given the presence of several rare plants, and the sensitivity of the salt marsh habitat, a floating dock will be constructed (providing funding is obtained), and a boardwalk/walkway established from the parking lot to the floating dock at the location shown in Fig.3. The dock will be open to use during daylight hours. Expected use is approximately 10 boats per weekend day during peak summer hours. During the weekday a maximum of 5 boats per day is expected during good weather.

#### **Availability of Resources:**

The estimated cost of construction and permitting of the boat dock/boardwalk is \$50,000, including signage, permits, symbolic fencing, and construction of the boardwalk and boat dock itself. Without grant funding, the Service would not have the resources available to construct the facilities, however, funding would be sought from the California State Coastal Conservancy or

## Proposed Canoe/kayak Launching

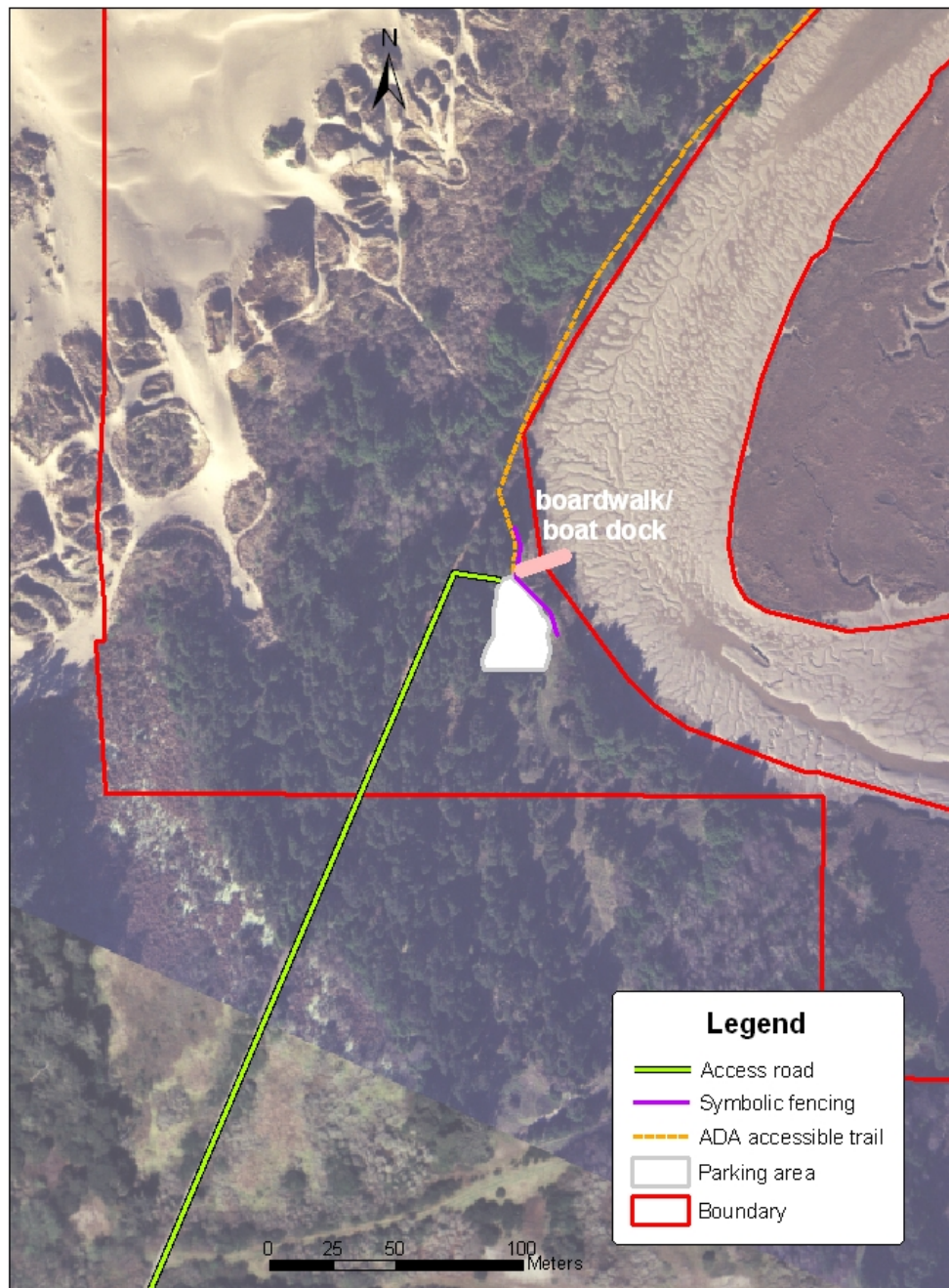


Figure 3. Location of proposed canoe/kayak launching facility.

other sources for the boat dock/boardwalk. Beyond the above-mentioned specific costs, this use would not add to the cost for associated management of public use already discussed under Part II, Draft Compatibility Determination and Pre-Acquisition Compatibility Determination for Wildlife Observation, Photography, and Environmental Education and Interpretation.

### **Anticipated Impacts of the Use:**

#### Endangered and Threatened Species

The boat dock and boardwalk would not directly impact endangered or threatened species. However, the sensitive plant Point Reyes bird's beak (*Cordylanthus maritimus* ssp. *palustris*) is present on the salt marsh adjacent to the proposed boardwalk. Use must be restricted to the boardwalk to avoid impacts to this species.

#### Coastal Dunes and Wetlands

The potential for visitors landing boats to trample sensitive salt marsh vegetation including the rare Point Reyes bird's beak is of concern. Salt marsh plant communities are known to be particularly sensitive to trampling. The ability for boaters to land during closed hours after dark would increase enforcement needs, and creates the potential for ignition of wildfires caused by unauthorized campfires. Intertidal mudflats are extremely productive habitats for benthic invertebrates. Repeated trampling and dragging of boats could disturb or displace these organisms. The potential for visitors to transport invasive, exotic species into the MDU salt marshes is of concern. The concentration of use to the board walk and boat dock is needed to reduce or avoid impacts to the salt marsh and mudflats. Proposed monitoring would detect any negative impacts to the salt marsh. If monitoring determines that users are not adhering to refuge rules (Stipulations presented herein) or are causing unacceptably adverse impacts, the use would be reevaluated. Otherwise, the use would be reevaluated as part of the Comprehensive Conservation Planning process. Specific impacts of construction of the boat dock would be considered in Section 404 and Section 10 permits required by the US Army Corps of Engineers prior to construction.

#### Migratory birds

Canoe launching and landing may disturb migratory birds utilizing the mudflats for feeding or by flushing birds and potentially decreasing their productivity. The concentration of use to the board walk and boat dock is needed to reduce or avoid these impacts.

#### Cultural resources

The construction of the boardwalk and floating boat dock is not expected to directly impact cultural resources, however its presence would increase the number of hikers accessing the MDU by boat, and therefore could increase the likelihood of vandalism or unintentional damage to sensitive resources. Monitoring of cultural resources would be conducted annually in cooperation with the Wiyot tribe to detect any adverse impacts (costs covered in previous Draft CD). If

monitoring determines that users are not adhering to refuge rules (Stipulations presented herein) or are causing unacceptably adverse impacts, these uses would be reevaluated. Otherwise, these uses would be reevaluated as part of the Comprehensive Conservation Planning process

### **Public Review and Comment:**

This Draft Compatibility Determination and Pre-Acquisition Compatibility Determination will be made available for public review and comment for 30 days by posting at Refuge Headquarters in Loleta, California and by a news release to the Eureka Times Standard. Any comments received and our responses will be summarized here in the final Compatibility Determination.

### **Determination (Check One Below):**

☐ Use is Not Compatible

☒ Use is Compatible with the following stipulations

### **Stipulations Necessary to Ensure Compatibility:**

To insure impacts remain within acceptable levels, the following stipulations are required

- Informational signs will be developed educating the public about why it is important to stay on the boardwalk and keep boats tied to the dock. Signage will also inform users that the channel is intertidal, and a tide chart will be posted. This will help prevent users from being stranded, or from having to drag boats over the mudflat during low tide.
- A barrier (symbolic or unobtrusive fencing) will be installed around the perimeter of the parking area to prevent visitors from trampling on the adjacent salt marsh, which supports rare plants.
- A monitoring program will be established to measure baseline conditions and detect any adverse impacts resulting from canoe and kayak landing. Cover of native vegetation and density of rare plants will be measured annually during the first 5 years of operation, and compared with fluctuations in adjacent un-impacted areas. If negative impacts are detected, the use will be discontinued or modified to reduce or prevent impacts.
- Public use arising from boat landing will be permitted on trails only, except via Special Use permit obtained from the Refuge Manager at least two weeks in advance.

- There will be no overflow parking once the lot is filled, and signs will be erected to inform users of this policy and to allow for towing of any cars that park in undesignated areas or that obstruct traffic.
- No smoking or fires will be permitted.
- Culturally sensitive sites will be monitored annually in cooperation with the Wiyot Tribe to ensure that no degradation of the sites occur as the result of boat access. Signs indicating prohibitions against disturbance or collection of cultural sites will be posted at the parking area. These signs will contain language sufficient to allow for enforcement of applicable laws.

**Justification:**

Canoe and kayak use in the Mad River Slough are a popular means of transport for wildlife observation, and allow the visiting public to enjoy, experience, and learn about the native wildlife in their natural habitat. Concerns about protecting rare native plants and animals, and the overall integrity of the dune ecosystem require that canoe launching and landing be carefully controlled, with adequate signing and education during the interim phase. If monitoring determines adverse impacts to be at an unacceptable level, or that users are not complying with refuge regulations and/or the Stipulations provided herein, the uses will be reevaluated.

**Mandatory Re-evaluation Dates:**

Oct. 2013 Mandatory 10-year Re-evaluation Date

**NEPA Compliance (Check One Below):**

☐ Categorical Exclusion and Environmental Action Statement

☒ Environmental Assessment and Finding of No Significant Impact Proposed  
Lanphere dunes Unit, Humboldt Bay NWR, June 2004 (attached)

☐ Environmental Impact Statement and Record of Decision

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**COMPATIBILITY AND PRE-ACQUISITION COMPATIBILITY DETERMINATION**  
**For Canoe/kayak Landing/Launching**  
**on the Lanphere Dunes Unit Modification and the Ma-le'l Dunes Unit Addition, Humboldt**  
**Bay National Wildlife Refuge**  
**Determination and Concurrence Signature Page**

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**Refuge Determination**

**Prepared by:** \_\_\_\_\_  
(Signature) (Date)

**Refuge Manager/  
Project Leader  
Approval:** \_\_\_\_\_  
(Signature) (Date)

**Concurrence**

**Refuge Supervisor** \_\_\_\_\_  
(Signature) (Date)

**Regional Chief,  
NWRs:** \_\_\_\_\_  
(Signature) (Date)

**CNO Manager:** \_\_\_\_\_  
(For CA/NV) (Signature) (Date)

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**Part IV. Draft Compatibility Determination and Pre-acquisition Compatibility  
Determination for  
Boater-only Camping at the  
Lanphere Dunes Unit Modification and the Proposed Ma-le'l Dunes Unit Addition,  
Humboldt Bay NWR**

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**Description of Use:**

Background and Public Use History

During the interim period between acquisition of the Ma-le'l Dunes addition and the development of the Comprehensive Conservation Plan (CCP) scheduled for 2008, public use programs implemented would be based on pre-existing uses. The Nature Conservancy owned the Lanphere Dunes Unit from its establishment in 1974 until 1998. During this time, the California State Coastal Conservancy (Coastal Conservancy) provided funding for two additions to the property. The grant agreement for the first addition (known as the Hutton parcel) required that public use be assured, pursuant to the existing use guidelines of The Nature Conservancy (use by permit or docent-led tours). The second grant agreement led to the acquisition of the southernmost parcel, known as the Fernstrom-Root parcel. In this case the grant agreement required that public access be provided via a separate access with fewer restrictions (allowing some walk-on use without a permit or docent). TNC then entered into a Cooperative Land Management Agreement (CLMA) with then owner of the MD parcel (Louisiana-Pacific Corp.) and the adjacent owner Bureau of Land Management. The CLMA area consisted of the Fernstrom-Root parcel, the MD parcel (owned by Louisiana-Pacific) and Manila Dunes Area of Critical Environmental Concern, owned by the Bureau of Land Management. The area was managed from 1992-1994 to provide public access in addition to protection and restoration of biological diversity. The open sand areas of the Bureau of Land Management and Ma-le'l Dunes parcels were excluded from the CLMA and off-highway vehicles were allowed in those areas. In 1994 the MD parcel was acquired by an Off-Highway Vehicle (OHV) Club. Public use of the parcel was discontinued, and recreational OHV use was conducted by the club in violation of a county ordinance until 1998. From 1998 until present, the MD property was not used for any owner-authorized public uses. In 1998 the Nature Conservancy donated fee title of the Lanphere Dunes Unit to the U.S. Fish and Wildlife Service and the Coastal Conservancy's grant agreement language was transferred to a Memorandum of Agreement (MOA) between the Coastal Conservancy and the Service providing for the conditions outlined in the grant agreement. At this time Interim Compatibility Determinations were developed for the Lanphere Dunes Unit (USFWS 1997). In 2003, when the Coastal Conservancy conveyed the MD parcel to Center for Natural Lands Management, the Irrevocable Offer to Dedicate (OTD) contained provisions relating to access and conservation. The Service expects to replace the OTD with a MOA with Coastal Conservancy at the time of donation. The MOA would have provisions that reflect the original terms of the Grant Deed.



Interim public use (prior to completion of a CCP) of the MD parcel is expected to be facilitated through a Memorandum of Understanding between the Service and the adjoining property owner, Bureau of Land Management (BLM). A cooperative management framework would be outlined that allows for coordinated management of resources and public use over BLM lands, the MD parcel, and the Service's Fernstrom-Root parcel. Public use of the cooperatively managed area Public use would be based on uses allowed during the operation of the Mad River Slough Cooperative Management Area from 1992-94. These uses included wildlife observation (walking), photography, and environmental education and interpretation along trails in the forest and vegetated, near-shore dunes during daylight hours. Use was approximately 2,000 visitors per year at the former Mad River Slough and Dunes Cooperative Management Area but is expected to be higher at the proposed addition based on use figures from adjoining Bureau of Land Management property (up to 6,000 visitors per year). No use of the salt marsh or other wetlands was permitted on the former area, with the exception of a short trail from the parking area to the mudflat for the purposes of canoe and kayak landing and launching. Dogs were allowed under the control of the owner. The only uses previously allowed that would no longer be permitted are dog-walking and OHV use. At the adjacent Bureau of Land Management property, dog walking but not OHV use is permitted.

#### Boater-only Camping

The Mad River Slough is a popular kayak and canoe route. Public launching into the slough is available at the Mad River Slough Bridge on Highway 255 (which has a public boat ramp), and on the Lanphere Road bridge (which has no ramp, but canoes and kayaks are frequently launched from the rock abutment to the bridge). The existing parking area at the MDU is adjacent to an intertidal channel of the Mad River Slough. As such, canoes or kayaks can be landed during high tides, although the channel is exposed at low tides. There are currently no boater-only campgrounds or campsites located on Humboldt Bay, so a user group has proposed that this use be considered at the MDU (Fig. 4).

#### **Availability of Resources:**

At the current time, the southern boundary of the MD parcel has not been surveyed, and the exact location relative to the existing parking lot is unknown. Depending on its location, the development of a boater only campsite(s) adjacent to the parking area might require the acquisition of land south of and adjoining the MDU. The cost of acquiring the adjoining 30-acre parcel, currently owned by the Sierra Pacific Corp, is estimated at \$50-100,000 and would be contingent on the owners willingness to sell. Development of primitive campsites is estimated at \$10,000. These costs are beyond the resources currently available, but it is likely that the State Coastal Conservancy or another grant funder might cover acquisition (if needed) and development costs. The maintenance of campsites is estimated at \$2,000 per year in excess of costs already covered

## Proposed Boater-Only Campsite

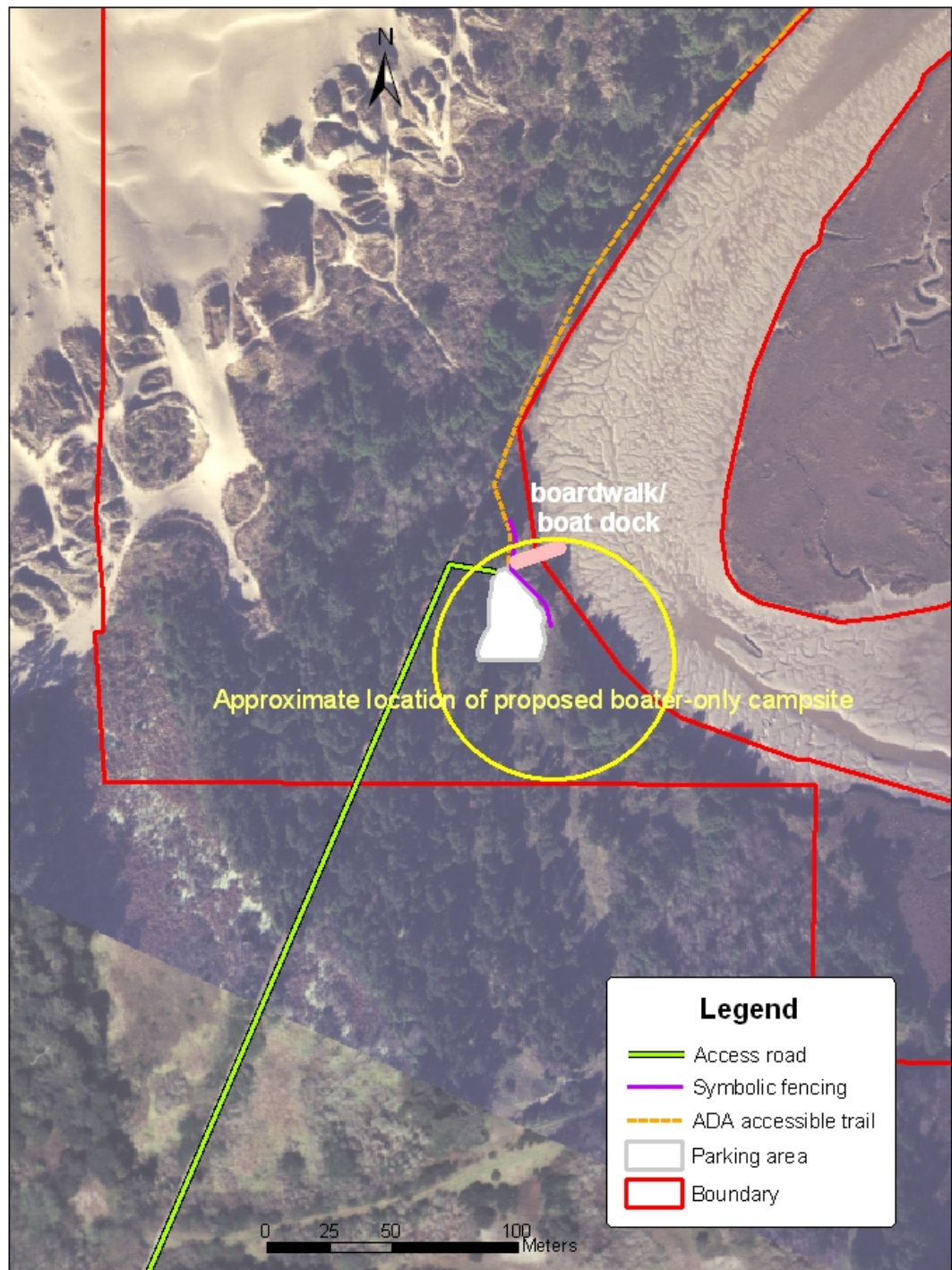


Figure 4. Location of proposed boater-only campsite (southern boundary of Ma-le'l Dunes Unit is approximate).

under Part II. Draft Compatibility Determination and Pre-Acquisition Compatibility Determination for Wildlife Observation, Photography, and Environmental Education and Interpretation. Because this proposed use would result in otherwise prohibited night time use, the level of patrolling and enforcement that would be required to prevent adverse impacts is expected to cost \$10,000 per year in excess of costs already covered under Part II. Draft Compatibility Determination and Pre-Acquisition Compatibility Determination for Wildlife Observation, Photography, and Environmental Education and Interpretation. These costs are beyond the resources currently available or expected to be available in the near future.

### **Anticipated Impacts of the Use(s):**

#### Coastal Dunes and Wetlands

The potential for overnight visitors to cause environmental impacts to coastal dunes and wetlands is high. Although members of an organized club such as that promoting this use are generally respectful of the environment, the presence of a campground would promote use by other individuals including transients with a high likelihood of vandalism. Although an on-site caretaker would reside nearby, the caretaker would be primarily patrolling the area during the daytime. Without regular night time patrolling and enforcement uncontrolled use is likely to occur. It would also be difficult to enforce the boater-only nature of the site. The presence of campsites would suggest that all types of camping were allowed, and even with signs, unauthorized walk-on camping would most likely also occur. Unauthorized camping by transients has already occurred on the property, with resultant impacts such as the development of unauthorized casual trails, littering, collection of mushrooms, berries, and other natural resources. Illegal overnight camping is possible even without a campsite. However, the presence of a facility would increase the probability of this occurring. Because other uses would be prohibited at night, and the general public would not be present (which tends to discourage illegal uses), it is more likely that night time users would stray off-trail, with the potential for adverse impacts. In addition, providing camping facilities for a single user group (non-motorized boaters) would likely result in conflicts with other users (drive-in or walk-on) who would also request camping facilities.

#### Cultural resources

The MDU is a part of the ancestral territory of the Wiyot tribe. There are sensitive cultural resources known to be on-site. The potential for overnight visitors to cause negative impacts to cultural resources is high. Although members of an organized club such as that promoting this use are generally respectful of the environment, the presence of a campground would promote use by other individuals including transients with a high likelihood of intentional or unintentional vandalism.

#### Migratory birds

Activities associated with overnight camping may disturb migratory birds utilizing the

mudflats for feeding causing them to flush and potentially decreasing their productivity.

**Public Review and Comment:**

This Draft Compatibility Determination and Pre-Acquisition Compatibility Determination will be made available for public review and comment for 30 days by posting at Refuge Headquarters in Loleta, California and by a news release to the Eureka Times Standard. Any comments received and our responses will be summarized here in the final Compatibility Determination.

**Determination (Check One Below):**

☒ **Use is Not Compatible**

☐ **Use is Compatible**

**Stipulations Necessary to Ensure Compatibility:**

Not Applicable

**Justification:**

The proposed use, boater-only camping, would be beyond the availability of resources currently available or expected to be available to the Service in the near future. The proposed use would likely result in adverse impacts to sensitive ecological and cultural resources.

**Mandatory Re-evaluation Dates:**

If there is still interest in this use at the time of the proposed Comprehensive Conservation Planning (scheduled for 2008), this use will be re-evaluated.

**NEPA Compliance:**

☐ **Categorical Exclusion and Environmental Action Statement**

☒ **Environmental Assessment and Finding of No Significant Impact Proposed Lanphere dunes Unit, Humboldt Bay NWR, June 2004 (attached)**

☐ **Environmental Impact Statement and Record of Decision**

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**COMPATIBILITY AND PRE-ACQUISITION COMPATIBILITY DETERMINATION**  
**for Boater-only Camping**  
**on the Lanphere Dunes Unit Modification and the Ma-le'l Dunes Unit Addition, Humboldt**  
**Bay National Wildlife Refuge**  
**Determination and Concurrence Signature Page**

---

**Refuge Determination**

**Prepared by:** \_\_\_\_\_  
(Signature) (Date)

**Refuge Manager/  
Project Leader  
Approval:** \_\_\_\_\_  
(Signature) (Date)

**Concurrence**

**Refuge Supervisor** \_\_\_\_\_  
(Signature) (Date)

**Regional Chief,  
NWRS:** \_\_\_\_\_  
(Signature) (Date)

**CNO Manager:** \_\_\_\_\_  
(For CA/NV) (Signature) (Date)

---

**Part V. Draft Compatibility Determination and Pre-acquisition Compatibility  
Determination for  
Dog Walking at the  
Lanphere Dunes Unit Modification and the Proposed Ma-le'l Dunes Unit Addition,  
Humboldt Bay NWR**

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**Description of Use:**

Background and Public Use History

During the interim period between acquisition of the Ma-le'l Dunes addition and the development of the Comprehensive Conservation Plan (CCP) scheduled for 2008, public use programs implemented would be based on pre-existing uses. The Nature Conservancy owned the Lanphere Dunes Unit from its establishment in 1974 until 1998. During this time, the California State Coastal Conservancy (Coastal Conservancy) provided funding for two additions to the property. The grant agreement for the first addition (known as the Hutton parcel) required that public use be assured, pursuant to the existing use guidelines of The Nature Conservancy (use by permit or docent-led tours). The second grant agreement led to the acquisition of the southern-most parcel, known as the Fernstrom-Root parcel. In this case the grant agreement required that public access be provided via a separate access with fewer restrictions (allowing some walk-on use without a permit or docent). TNC then entered into a Cooperative Land Management Agreement (CLMA) with then owner of the MD parcel (Louisiana-Pacific Corp.) and the adjacent owner Bureau of Land Management. The CLMA area consisted of the Fernstrom-Root parcel, the MD parcel (owned by Louisiana-Pacific) and Manila Dunes Area of Critical Environmental Concern, owned by the Bureau of Land Management. The area was managed from 1992-1994 to provide public access in addition to protection and restoration of biological diversity. The open sand areas of the Bureau of Land Management and Ma-le'l Dunes parcels were excluded from the CLMA and off-highway vehicles were allowed in those areas. In 1994 the MD parcel was acquired by an Off-Highway Vehicle (OHV) Club. Public use of the parcel was discontinued, and recreational OHV use was conducted by the club in violation of a county ordinance until 1998. From 1998 until present, the MD property was not used for any owner-authorized public uses. In 1998 the Nature Conservancy donated fee title of the Lanphere Dunes Unit to the U.S. Fish and Wildlife Service and the Coastal Conservancy's grant agreement language was transferred to a Memorandum of Agreement (MOA) between the Coastal Conservancy and the Service providing for the conditions outlined in the grant agreement. At this time Interim Compatibility Determinations were developed for the Lanphere Dunes Unit (USFWS 1997). In 2003, when the Coastal Conservancy conveyed the MD parcel to Center for Natural Lands Management, the Irrevocable Offer to Dedicate (OTD)

contained provisions relating to access and conservation. The Service expects to replace the OTD with a MOA with Coastal Conservancy at the time of donation. The MOA would have provisions that reflect the original terms of the Grant Deed.

Interim public use (prior to completion of a CCP) of the MD parcel is expected to be facilitated through a Memorandum of Understanding between the Service and the adjoining property owner, Bureau of Land Management (BLM). A cooperative management framework would be outlined that allows for coordinated management of resources and public use over BLM lands, the MD parcel, and the Service's Fernstrom-Root parcel. Public use of the cooperatively managed area Public use would be based on uses allowed during the operation of the Mad River Slough Cooperative Management Area from 1992-94. These uses included wildlife observation (walking), photography, and environmental education and interpretation along trails in the forest and vegetated, near-shore dunes during daylight hours. Use was approximately 2,000 visitors per year at the former Mad River Slough and Dunes Cooperative Management Area but is expected to be higher at the proposed addition based on use figures from adjoining Bureau of Land Management property (up to 6,000 visitors per year). No use of the salt marsh or other wetlands was permitted on the former area, with the exception of a short trail from the parking area to the mudflat for the purposes of canoe and kayak landing and launching. Dogs were allowed under the control of the owner.

#### Dog Walking

Currently, the only public dune areas not open to dog walking are the Lanphere Dunes Unit and Little River State Beach (Moonstone Beach is under consideration for a dog closure). Dogs are allowed under the control of their owners (or leashed under certain conditions) at a number of dune locations around Humboldt Bay and vicinity including South Spit Cooperative Management Area, Samoa Dunes National Recreation Area, several beach access sites at near Samoa, the Manila Dunes, BLM Manila Dunes ACEC, Mad River County Park, King Salmon spit, Elk River Wildlife Sanctuary, Clam Beach, and various Trinidad Beaches. Dog walking was considered at the Ma-le'l Dunes Unit with dogs under the control of owners or on leashes.

#### **Availability of Resources:**

The cost of enforcing on-leash/voice control use only would not be in excess of costs already identified under Part II. Draft Compatibility Determination and Pre-acquisition Compatibility Determination for Wildlife Observation, Photography, and Environmental Education and Interpretation. The cost of providing litter bags, trash removal, and disposal fees to deal with dog feces is estimated at an additional \$500 per year.

#### **Anticipated Impacts of the Use:**

#### Endangered and Threatened Species



Dogs wandering off-trail on the nearshore dunes would be likely to adversely affect the endangered beach layia and Humboldt Bay wallflower by trampling. Dogs (even on-trail and on-leash) are likely to introduce new or spread existing invasive species as seeds or reproducing plant parts, either directly or through feces. Dog feces in the nearshore dunes would increase nutrient levels, indirectly facilitating weed invasion, which would threaten endangered plants. Dogs

#### Coastal Dunes and Wetlands

The potential for dogs to transport invasive, exotic species into the MDU, especially into native habitat restoration areas, directly or through feces, is of concern (either on or off-leash). Trampling of native vegetation and damage from digging would likely result from the presence of dogs off-leash. Dogs not under control of the owner are likely to chase and disturb wildlife. The potential for conflicts between unleashed dogs and other users is also of concern.

#### Migratory birds

Dogs may disturb migratory birds utilizing the MDU habitats for feeding, resting or nesting activities by flushing birds. Dog walking near the wetland habitats could disturb feeding and nesting migratory waterfowl, decreasing their productivity. Digging by dogs could disturb migratory bird habitat.

#### Cultural resources

The MDU is a part of the ancestral territory of the Wiyot tribe. There are sensitive cultural resources known to be on site. Uncontrolled dogs could cause surface disturbance and damage. Digging could result in subsurface damage and exposure of artifacts.

#### **Public Review and Comment:**

This Draft Compatibility Determination and Pre-Acquisition Compatibility Determination will be made available for public review and comment for 30 days by posting at Refuge Headquarters in Loleta, California and by a news release to the Eureka Times Standard. Any comments received and our responses will be summarized here in the final Compatibility Determination.

#### **Determination (Check One Below):**

☒ **Use is Not Compatible**

☐ **Use is Compatible**

#### **Stipulations Necessary to Ensure Compatibility:**

Draft Compatibility and Pre-Acquisition Compatibility Determinations, Proposed Ma-le'l Dunes Unit,  
Humboldt Bay National Wildlife Refuge

Not Applicable

**Justification:**

The proposed use, dog walking, would likely result in adverse impacts to sensitive ecological and cultural resources.

**Mandatory Re-evaluation Dates:**

If there is still interest in this use at the time of the proposed Comprehensive Conservation Planning (scheduled for 2008), this use will be re-evaluated.

**NEPA Compliance:**

☐ **Categorical Exclusion and Environmental Action Statement**

☒ **Environmental Assessment and Finding of No Significant Impact Proposed Lanphere dunes Unit, Humboldt Bay NWR, June 2004 (attached)**

☐ **Environmental Impact Statement and Record of Decision**

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**COMPATIBILITY AND PRE-ACQUISITION COMPATIBILITY FOR  
Dog walking  
on the Lanphere Dunes Unit Modification and the Ma-le'l Dunes Unit Addition, Humboldt  
Bay National Wildlife Refuge  
Determination and Concurrence Signature Page**

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**Refuge Determination**

**Prepared by:** \_\_\_\_\_  
(Signature) (Date)

**Refuge Manager/  
Project Leader  
Approval:** \_\_\_\_\_  
(Signature) (Date)

**Concurrence**

**Refuge Supervisor** \_\_\_\_\_  
(Signature) (Date)

**Regional Chief,  
NWRS:** \_\_\_\_\_  
(Signature) (Date)

**CNO Manager:** \_\_\_\_\_  
(For CA/NV) (Signature) (Date)

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**Part VI. Draft Compatibility Determination and Pre-acquisition Compatibility  
Determination for  
Tribal Access and Gathering  
Lanphere Dunes Unit Modification and the Proposed Ma-le'l Dunes Unit Addition,  
Humboldt Bay NWR**

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**Description of Use:**

Background and Public Use History

During the interim period between acquisition of the Ma-le'l Dunes addition and the development of the Comprehensive Conservation Plan (CCP) scheduled for 2008, public use programs implemented would be based on pre-existing uses. The Nature Conservancy owned the Lanphere Dunes Unit from its establishment in 1974 until 1998. During this time, the California State Coastal Conservancy (Coastal Conservancy) provided funding for two additions to the property. The grant agreement for the first addition (known as the Hutton parcel) required that public use be assured, pursuant to the existing use guidelines of The Nature Conservancy (use by permit or docent-led tours). The second grant agreement led to the acquisition of the southern-most parcel, known as the Fernstrom-Root parcel. In this case the grant agreement required that public access be provided via a separate access with fewer restrictions (allowing some walk-on use without a permit or docent). TNC then entered into a Cooperative Land Management Agreement (CLMA) with then owner of the MD parcel (Louisiana-Pacific Corp.) and the adjacent owner Bureau of Land Management. The CLMA area consisted of the Fernstrom-Root parcel, the MD parcel (owned by Louisiana-Pacific) and Manila Dunes Area of Critical Environmental Concern, owned by the Bureau of Land Management. The area was managed from 1992-1994 to provide public access in addition to protection and restoration of biological diversity. The open sand areas of the Bureau of Land Management and Ma-le'l Dunes parcels were excluded from the CLMA and off-highway vehicles were allowed in those areas. In 1994 the MD parcel was acquired by an Off-Highway Vehicle (OHV) Club. Public use of the parcel was discontinued, and recreational OHV use was conducted by the club in violation of a county ordinance until 1998. From 1998 until present, the MD property was not used for any owner-authorized public uses. In 1998 the Nature Conservancy donated fee title of the Lanphere Dunes Unit to the U.S. Fish and Wildlife Service and the Coastal Conservancy's grant agreement language was transferred to a Memorandum of Agreement (MOA) between the Coastal Conservancy and the Service providing for the conditions outlined in the grant agreement. At this time Interim Compatibility Determinations were developed for the Lanphere Dunes Unit (USFWS 1997). In 2003, when the Coastal Conservancy conveyed the MD parcel to Center for Natural Lands Management, the Irrevocable Offer to Dedicate (OTD)

contained provisions relating to access and conservation. The Service expects to replace the OTD with a MOA with Coastal Conservancy at the time of donation. The MOA would have provisions that reflect the original terms of the Grant Deed.

Interim public use (prior to completion of a CCP) of the MD parcel is expected to be facilitated through a Memorandum of Understanding between the Service and the adjoining property owner, Bureau of Land Management (BLM). A cooperative management framework would be outlined that allows for coordinated management of resources and public use over BLM lands, the MD parcel, and the Service's Fernstrom-Root parcel. Public use of the cooperatively managed area Public use would be based on uses allowed during the operation of the Mad River Slough Cooperative Management Area from 1992-94. These uses included wildlife observation (walking), photography, and environmental education and interpretation along trails in the forest and vegetated, near-shore dunes during daylight hours. Use was approximately 2,000 visitors per year at the former Mad River Slough and Dunes Cooperative Management Area but is expected to be higher at the proposed addition based on use figures from adjoining Bureau of Land Management property (up to 6,000 visitors per year). No use of the salt marsh or other wetlands was permitted on the former area, with the exception of a short trail from the parking area to the mudflat for the purposes of canoe and kayak landing and launching. Dogs were allowed under the control of the owner. The only uses previously allowed that would no longer be permitted are dog-walking and OHV use. At the adjacent Bureau of Land Management property, dog walking but not OHV use is permitted.

Access and Gathering by Tribal Members Ma-le'l dunes are the ancestral home of the Wiyot tribe and contain important cultural sites that the tribe would like to have access to both for gathering purposes and other cultural activities. Historically, Wiyots gathered huckleberries and other food sources, hunted waterfowl in the seasonal ponds, and used the dunes for drying drying surf fish and implement making. The tribe has requested access be allowed for traditional gathering such as spruce roots for basket making, and some sustenance foods such as huckleberries. Use levels are expected to be low, perhaps 5 visits per year of one or a few tribal members. Use would be restricted to areas without endangered plants. Specific locations of gathering would be identified in advance through an MOU or SUP, and impacts monitored by refuge staff.

### **Availability of Resources:**

The cost of allowing limited access and gathering for Native peoples would not be in excess of costs already identified under Part II. Draft Compatibility Determination and Pre-acquisition Compatibility Determination for Wildlife Observation, Photography, and Environmental Education and Interpretation.

### **Anticipated Impacts of the Use:**

### Endangered and Threatened Species

Gathering and access off-trail would be restricted to areas in which endangered plants are not present.

### Coastal Dunes and Wetlands

Gathering and off-trail access by Native American groups could result in disturbance of sensitive wetland or dune resources. Over collecting could have adverse impacts on resources. This use would necessitate the development of an MOU or special use permit, with the establishment of accepted areas of access and maximum levels of gathering.

### Migratory birds

Access near wetland habitats could disturb feeding and nesting migratory waterfowl, decreasing their productivity.

### Cultural resources

Use of the site by the Wiyot tribe would be consistent with maintaining the value of the cultural resources on site.

### **Public Review and Comment:**

This Draft Compatibility Determination and Pre-Acquisition Compatibility Determination will be made available for public review and comment for 30 days by posting at Refuge Headquarters in Loleta, California and by a news release to the Eureka Times Standard. Any comments received and our responses will be summarized here in the final Compatibility Determination.

### **Determination (Check One Below):**

☐ Use is Not Compatible

☒ Use is Compatible

### **Stipulations Necessary to Ensure Compatibility:**

#### **Stipulations Necessary to Ensure Compatibility:**

To insure impacts remain within acceptable levels, the following stipulations are required

- A Memorandum of Understanding and/or Special Use Permits will be developed with the Tribe, specifying areas permitted for access, timing of access, maximum number of people, and maximum gathering levels for all identified resources.

- A monitoring program will be established to measure baseline conditions and detect any adverse impacts resulting from Native American off-trail access and gathering.
- No smoking or fires will be permitted.

**Justification:**

The proposed use, access and gathering by tribal members, would be helpful in developing a cooperative relationship with the Wiyot tribe, whom it is hoped will assist in the monitoring of sensitive cultural resources on the site. No adverse impacts would occur if stipulations are followed.

**Mandatory Re-evaluation Dates:**

Oct. 2013 Mandatory 10-year Re-evaluation Date

**NEPA Compliance (Check One Below):**

☐ Categorical Exclusion and Environmental Action Statement

☒ Environmental Assessment and Finding of No Significant Impact Proposed  
Lanphere dunes Unit, Humboldt Bay NWR, June 2004 (attached)

☐ Environmental Impact Statement and Record of Decision

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**COMPATIBILITY AND PRE-ACQUISITION COMPATIBILITY FOR  
Tribal Access and Gathering  
on the Lanphere Dunes Unit Modification and the Ma-le'l Dunes Unit Addition, Humboldt  
Bay National Wildlife Refuge  
Determination and Concurrence Signature Page**

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**Refuge Determination**

**Prepared by:** \_\_\_\_\_  
(Signature) (Date)

**Refuge Manager/  
Project Leader  
Approval:** \_\_\_\_\_  
(Signature) (Date)

**Concurrence**

**Refuge Supervisor** \_\_\_\_\_  
(Signature) (Date)

**Regional Chief,  
NWRs:** \_\_\_\_\_  
(Signature) (Date)

**CNO Manager:** \_\_\_\_\_  
(For CA/NV) (Signature) (Date)